

EXHIBIT 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Civil Action No. 06 Civ. 8193(PAC) (DF)

-----x
CLEAR CHANNEL OUTDOOR, INC.,

Plaintiff,

- against -

THE CITY OF NEW YORK and PATRICIA J.
LANCASTER, in her official capacity as
Commissioner of the New York City
Department of Buildings,

Defendants.

-----x
Civil Action No. 06 Civ. 8219(PAC) (DF)

-----x
ATLANTIC OUTDOOR ADVERTISING, INC., SCENIC
OUTDOOR, INC., TROYSTAR CORPORATION and
WILLOW MEDIA, L.L.C,

Plaintiffs,

-against-

CITY OF NEW YORK, PATRICIA J. LANCASTER,
and EDWARD FORTIER,

Defendants.

-----x
March 11, 2008

1:50 p.m.

Deposition of DANIEL DOCTOROFF,
pursuant to Notice; held at the offices of

Davis Wright Tremaine LLP, 1633 Broadway,

New York, New York, before Jineen Pavesi,

a Registered Professional Reporter,

Registered Merit Reporter, Certified

Realtime Reporter and Notary Public of the

State of New York.

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Q. On the assumption I am accurate in saying there were a number of signs under different agencies along arterials, you wouldn't doubt that that would be violative of the city's laws?

A. I have no idea, because I can't tell you what the city's laws say, whether the city's laws only apply to private property as opposed to private and public property.

Q. Are you aware as to the general thrust of this litigation?

A. Not really.

Q. Clear Channel and other plaintiffs are challenging the city's ban on arterial signs in commercial and manufacturing areas only.

They are not challenging the outright ban in residential zones or in park zones.

Do you feel the same way in terms of what you like as to arterial signs about signs in commercial and manufacturing areas as you do in

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the layperson would describe as highway?

A. Yes.

I, for example, in the commercial districts in the core of Manhattan was strongly opposed to the signs on sidewalk sheds, the signs that are hung from the sides of buildings.

So overall I have serious reservations about large signs, other than in specifically designated areas like Times Square.

Q. Do you have the same feeling about advertising signs on bus shelters?

A. No.

Q. And on phone kiosks?

A. I think there are too many signs on phone kiosks and in fact shortly before I left I encouraged the Buildings Department and the Law Department and DOITT, because they were responsible for the phone kiosks, to review the city's policy, particularly as it pertains to what would happen upon the termination of those contracts, which was largely going

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residential and park areas?

A. I don't like them anywhere, that's just a matter of personal preference, that is not a statement of opinion about the law, I just don't like them.

Q. And they are, I guess among other things, aesthetically displeasing to you?

A. I believe they clutter of the landscape, yes.

Q. Is the clutter factor as troublesome to you in manufacturing districts, for example, as opposed to park districts or are they equally troubling to you?

A. I would say they are more troubling in park districts than in manufacturing districts, but generally troubling -- we're talking highway signs -- under all circumstances.

Q. But you are aware, are you not, that the term arterial highways under the city zoning code applies to more than what

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to be in 2010, with the idea of severely limiting the number of phone kiosks, despite the fact the city generates substantial revenue from them.

Q. Is there something about the signs on the phone kiosks that are more troubling to you?

A. There are simply too many of them; literally in many places in Manhattan there are two or three on a block and they were put there without any real consideration for the need for the phones or the appearance that would result from their placement.

Q. Let me finish the earlier question and let me ask you to let me finish the question.

Was there anything particular on ad panels in phone kiosks that were more troublesome to you than ad panels on bus shelters?

A. I simply felt there were too many phone kiosks.

Q. It is a volume issue only?

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A. I don't think it was called that then; as you walk into the mayor's side of City Hall, it is directly at the end of the haul.

Q. Was Mr. Ricks there?

A. I don't remember.

Q. Mr. Perello was there?

A. Yes.

Q. Mr. Schaps?

A. Yes.

Q. Do you know Mona Sehgal?

A. No.

Q. Do you know Edward Fortier?

A. I do.

Q. Was he there?

A. I don't remember.

Q. Did you take notes at the meeting?

A. No.

Q. Did anyone?

A. I don't know.

Q. Who made the presentation, to the best of your recollection?

A. I think it was Richard Schaps.

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Q. What did he talk about?

A. I don't remember.

Q. Did he talk about billboards?

A. I don't remember.

Q. Did he talk about street furnishings?

A. I don't remember.

It probably would have been one of 60 meetings I would have had that week.

Q. I would like to show you a document previously marked as Clear Channel Exhibit 30.

(Witness perusing document.)

Q. I know many of those pictures are not very legible, but does this appear to be the presentation and PowerPoint that was presented and distributed at the meeting?

A. I don't recall, other than the fact on appendix D it says PowerPoint presentation made by Van Wagner communications to Deputy Mayor Doctoroff and staff.

I don't remember the

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presentation, but I assume this was the presentation given the label.

Q. Was the PowerPoint projected on a screen?

A. Yes.

Q. Let's go to page Bates numbered 1501, which reads, "The problem; New York's arterial highways and streets are cluttered with illegal advertising signage."

Does that heading refresh your recollection as to whether that was one of the subjects of the presentation discussed at the meeting?

A. It does not refresh my recollection as much as the e-mail that you showed me before which said that was one of the topics that was going to be discussed.

Q. In the first paragraph, the final two sentences read, "More than \$50 million was spent on the legal New York City outdoor media in 2005. If New York City laws had been enforced, a significant

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portion of that money could have been spent on forms of outdoor advertising that provide revenue for the city such as the street furniture program."

Do you see that?

A. I do.

Q. Do you recall that point being made?

A. I do recall the point being made and I also recall that to me that point was irrelevant, that I was never motivated at any time in my thinking about billboards and policies related to illegal billboards or arterial highway signs by considerations of money, it was only by considerations of aesthetics.

There was never a confluence -- there never was expressed, certainly not in my presence, a connection between reducing any form of signage in order to increase the value of the street furniture franchise.

Q. When that point was made, did you disabuse Mr. Schaps or the other Van

20 (Pages 74 to 77)

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2 Wagner representatives of their thinking?

3 A. I don't think so, but that
4 wouldn't be unusual, they were in to make
5 a point and I felt little need I'm sure to
6 rebut it.

7 Q. Assuming that your testimony is
8 accurate, and I don't begin to suggest the
9 contrary, that it was simply not a factor
10 in your thinking or the city's policies,
11 namely the increase of revenue, was it
12 nonetheless accurate to say that if
13 hundreds of outdoor billboards came down
14 it would somewhat increase the value of
15 other advertising?

16 A. I don't believe that is the
17 case for the reasons that I expressed
18 earlier.

19 I have always viewed the
20 billboard market and the street furniture
21 market for advertisers, whether it is
22 right or wrong I don't know, but to be
23 different markets, one for motorists and
24 their passengers and one for pedestrians.

25 So I don't ever even remember

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2 going to spend more.

3 They serve very different
4 purposes in my mind, so I don't
5 acknowledge that he even for companies
6 that would advertise on both, that a
7 decline in one would result in an increase
8 in another.

9 Q. Let's take some sample
10 advertisers, for example.

11 Soon-to-be-released motion
12 pictures, automobiles, beer --

13 A. No, I acknowledge that there
14 are some advertisers that would advertise
15 on both, that also advertise on TV and
16 advertise on the radio and advertise in
17 magazines and newspapers and on the
18 Internet.

19 What I don't acknowledge is
20 that a reduction in spending on one leads
21 to an increase in spending on the rest for
22 any specific form of advertising.

23 Q. Let's change increase in
24 spending in your sentence to increase in
25 demand.

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2 thinking about the connection between the
3 two.

4 Q. But you do remember that he
5 made the point?

6 A. Yes.

7 Q. You also -- perhaps I am
8 wrong, I don't want to mischaracterize
9 your testimony -- I thought you did
10 testify that as you looked at outdoor
11 advertising generally, that you would
12 agree that there were many advertisers
13 that chose to advertise both on billboards
14 and on shelters --

15 A. But that's not relevant in my
16 view.

17 The fact that an advertiser
18 might choose to advertise on a billboard
19 and on street furniture doesn't mean that
20 if you didn't advertise on one you would
21 spend more on another because you're
22 trying to reach different people with
23 different media.

24 Just like you would say, well,
25 you know, if I don't advertise on TV I'm

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2 A. I don't think that's the case,
3 because they serve different purposes.

4 Q. What are the differences in
5 those purposes?

6 A. Different sets of people,
7 different targets, different demographics,
8 different experiences.

9 The experience of walking by
10 something is a very different experience
11 than what you experience driving by
12 something and I just don't believe they
13 think of them as substitutable.

14 Q. But for the advertiser who
15 wants to promote the motion picture or the
16 beer or the new automobile, what's the
17 different purpose that is achieved --

18 A. It is not the different
19 purpose, it is the different audience and
20 different experience of seeing the
21 advertisement.

22 Q. Did you understand that Van
23 Wagner's billboards were largely legal tap
24 meeting?

25 A. As I reflect on the meeting, I

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2 the second page he sent ccs of this letter
3 to the Commissioner of Buildings and two
4 of its senior employees responsible for
5 sign enforcement, Mona Sehgal and Edward
6 Fortier, did you not?

7 A. I just noticed that.

8 Q. Having granted a meeting to
9 him where he made his presentation with
10 which you disagreed in part and then he
11 follows with a letter to you --

12 A. When you say I disagree, let me
13 just interrupt.

14 I am not saying I disagreed in
15 the meeting, I didn't say I disagreed with
16 the intent.

17 He and I may have had different
18 motives, I do disagree with some of the
19 assertions that he made about my motives,
20 but not necessarily about my intent.

21 Q. Let's go back just to clarify
22 that, go back to Exhibit 30 and if you
23 would go to page 11501.

24 (Witness complying.)

25 Q. The last sentence of the first

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2 paragraph, "If New York City laws had been
3 enforced, a significant portion of that
4 money could have been spent on forms of
5 outdoor advertising that provide revenue
6 for the city such as the street furniture
7 program."

8 Is it your testimony that that
9 statement is accurate but did not reflect
10 your view?

11 A. No, I hadn't even conceded that
12 it is accurate.

13 What I think I have tried to
14 say a couple of times is that I believe
15 outdoor advertising, billboards, and
16 street furniture and other related city
17 assets are not related, that revenues from
18 one, shifting of revenues from one, does
19 not -- decrease in revenues from one does
20 not translate an increase in revenues from
21 the other.

22 Q. So it is true you disagree at
23 least in part with statements that he made
24 during his presentation?

25 A. No, I didn't say -- I didn't

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2 say anything at the meeting.

3 Q. I am not saying you said
4 anything, but I thought you testified you
5 listened and disagreed, albeit privately,
6 with this point?

7 A. I don't know if I did or
8 didn't, but I never believed there was a
9 connection between the two.

10 So I never conceded that as a
11 matter of fact an elimination of
12 advertising on illegal outdoor signs would
13 result in an increase in advertising
14 revenue from the street furniture program.

15 Q. To that extent at least you
16 disagreed with Mr. Schaps' presentation?

17 A. I do disagree; I can't tell you
18 I disagreed to him.

19 Q. I am not saying that you said
20 it, but you disagreed at the time you
21 heard it?

22 A. I would have disagreed at that
23 time.

24 But I will also say that it was
25 never a consideration in our development

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2 of a policy with respect to outdoor
3 advertising.

4 Q. Now let me go back to Exhibit
5 31, which is now a couple of days later
6 when you receive it following the meeting.

7 Isn't he making the same point
8 in the last sentence with which you
9 disagreed at the time?

10 A. Yes, but I just said I probably
11 didn't say anything about it at the
12 meeting.

13 Q. I understand that.

14 My question is, now you
15 learned, did you not, that he was sending
16 a copy of this letter confirming his
17 understanding, as he saw it, to your
18 senior officials responsible in this area.

19 A. He probably would have said the
20 same thing in the same meeting assuming
21 they were there, so it certainly couldn't
22 have been any surprise to them.

23 Q. Did you express your
24 disagreement on this subject to either
25 Commissioner Lancaster, Mona Sehgal,

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Edward Fortier, or anyone else at the Buildings Department?

A. I don't believe I did.

Q. To anyone else in the city government?

A. I don't recall.

Q. I would like to show the witness Exhibit 32 previously marked.

(Witness perusing document.)

Q. This is two e-mails in later July and neither of which are to you.

A. Yes.

Q. The lower and earlier one is from Mr. Schaps to Commissioner Lancaster; can you read that lower one.

A. Yes.

(Witness perusing document.)

Q. Is it true that Edward Fortier or Mona Sehgal, or responsible officials at the Buildings Department, were present at the meeting at your invitation?

A. I don't know.

Q. In the top e-mail, at the top of the page, Mona Sehgal says to

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at those agencies to whom we think the city's initial educational efforts should be directed."

Were you aware that Mr. Fortier had requested of Van Wagner a list of the media-buying agencies with a view to having the city contact them?

A. No, but if I had been, I would have applauded it.

Q. You would have applauded it?

A. Sure, we were very interested in insuring that we eliminate the illegal signs.

And, as I said before, the mere fact that we and Van Wagner saw the purpose of enforcement to be different doesn't mean that we were not in agreement with the goal of eliminating illegal signs and were prepared to look at ways of doing that.

Q. And so their proposal that the city write directly to the media ad agencies had your approval?

A. I can't say it had my approval,

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Commissioner Lancaster, "Ed," meaning Fortier and "Phyllis," meaning Arnold, "have had numerous discussions and meetings with Van Wagner since 2001."

Did you know that in 2006?

A. I don't know.

Q. I would like to show the witness Exhibit No. 15 previously marked.

This is a letter from

Mr. Pretsfelder, counsel to Van Wagner, to Mr. Fortier dated July 27, 2006, showing you as a copy.

Have you seen Exhibit 15 before?

(Witness perusing document.)

A. Yes.

Q. Did you review it at the time you received it?

A. I skimmed it.

Q. In the third paragraph Mr. Pretsfelder says to Mr. Fortier, "To help you in this process and pursuant to your request, we have enclosed a list of the top media-buying agencies and contacts

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I don't remember weighing in specifically, I would have left that to Buildings to determine whether it was appropriate, legal, or whatever.

But if they determined that it was going to be effective in achieving our objective, then I would have generally applauded it.

Q. Did you read the draft letter to ad agencies that was attached to this letter?

A. No.

Q. I would like the witness to have an opportunity to review Exhibit 140.

(Witness perusing document.)

Q. This is an e-mail in October '06 relating to a meeting with Mike McKeehan and Van Wagner and it says that "the required attendees are Elizabeth Weinstein and Edward Fortier."

Who was Elizabeth Weinstein?

A. She was a senior policy advisor who worked for me in the Mayor's Office of Operations and was responsible for me for